

Christy D. Joseph (#136785)
cjoseph@swlaw.com
Nathan W. Hicks (#236269)
nhicks@swlaw.com
SNELL & WILMER L.L.P.
600 Anton Boulevard, Suite 1400
Costa Mesa, CA 92626-7689
Telephone: (714) 427-7000
Facsimile: (714) 427-7799

Attorneys for Defendants

UNITED STATES DISTRICT COURT – SOUTHERN DISTRICT OF
CALIFORNIA

CHAD MCKINNEY, an individual,
Plaintiff,

v.

APOLLO GROUP, INC.,
UNIVERSITY OF PHOENIX, a
Corporation, MECHELLE
BONILLA, an Enrollment Manager
at UNIVERSITY OF PHOENIX,
KYAN FLYNN, Director of
Enrollment at UNIVERSITY OF
PHOENIX, APRIL ALCORN, an
Employees Relations Consultant at
UNIVERSITY OF PHOENIX,
CARLYN LINDSTEN, Associate
Director of Enrollment at
UNIVERSITY OF PHOENIX

Defendants

CASE NO. 07-CV-2373 WQH CAB

**NOTICE OF MOTION AND
MOTION TO DISMISS
PLAINTIFF'S COMPLAINT, OR, IN
THE ALTERNATIVE, MOTION
FOR MORE DEFINITE
STATEMENT**

**[FRCP 12(b)(2); 12(b)(5); 12(b)(6);
12(e).]**

**NO ORAL ARGUMENT, UNLESS
REQUESTED BY THE COURT**

Date: April 21, 2008
Time: 11:00 a.m.
Courtroom: 4
Judge: Hon. William Q. Hayes

DATE OF FILING: December 19, 2007

TO PLAINTIFF AND HIS ATTORNEY(S) OF RECORD:

PLEASE TAKE NOTICE that on April 21, 2008 at 11:00 a.m., or as soon thereafter as counsel may be heard by the above entitled Court, located at 940 Front Street, San Diego, California 92101, Courtroom 4, defendants Kyan Flynn, Mechelle Bonilla and Carlyn Lindsten (the "Individual Defendants") will and hereby do move the Court pursuant to Rules 12(b)(2); 12(b)(5); 12(b)6; and 12(e) of the Federal Rules of Civil Procedure ("FRCP") to dismiss plaintiff's complaint with prejudice or in the alternative require a more definite statement.

This motion is brought on the following grounds: (1) The Court lacks jurisdiction over the Individual Defendants since they were never properly served in this matter; (2) The Complaint fails to state any claims upon which relief may be granted; (3) The Complaint fails to set forth a short and plain statement of the claim showing that the [plaintiff] is entitled to relief; and (4) The Complaint is so vague and ambiguous so as to require plaintiff to provide a more definite statement.

This motion is based on this notice of motion and motion, the memorandum of points and authorities, the declarations of Nathan W. Hicks, Kyan Flynn, Mechelle Bonilla and Carlyn Lindsten filed herewith, and supporting exhibit thereto, the Court's files in this matter, all supporting documents, evidence and oral argument before this Court at the time of the hearing, and any other matter properly before the Court.

Date: March 20, 2008

SNELL & WILMER L.L.P.

By: 

Christy Joseph
Nathan W. Hicks
Attorneys for Apollo Group, Inc.

McKinney v. Apollo Group, Inc., et al.
USDC, Southern – Case No. 07-CV-2373

PROOF OF SERVICE

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action; my business address is 600 Anton Boulevard, Suite 1400, Costa Mesa, California 92626-7689.

On March 20, 2008, I served, in the manner indicated below, the foregoing document described as

**NOTICE OF MOTION AND MOTION TO DISMISS PLAINTIFF'S
COMPLAINT, OR IN THE ALTERNATIVE, MOTION FOR MORE DEFINITE
STATEMENT**

on the interested parties in this action by placing true copies thereof, enclosed in sealed envelopes, at Costa Mesa, addressed as follows:

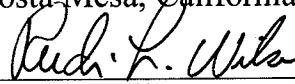
I am employed in the office of a member of the bar of this court at whose direction the service was made.

Please See Attached Service List

- ☐ BY REGULAR MAIL: I caused such envelopes to be deposited in the United States mail at Costa Mesa, California, with postage thereon fully prepaid. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. It is deposited with the United States Postal Service each day and that practice was followed in the ordinary course of business for the service herein attested to (C.C.P. § 1013(a)).
- ☐ BY FACSIMILE: (C.C.P. § 1013(e)(f)) and by e-mail
- ☒ BY FEDERAL EXPRESS: I caused such envelopes to be delivered by air courier, with next day service, to the offices of the addressees. (C.C.P. § 1013(c)(d)).
- ☐ BY PERSONAL SERVICE: I caused such envelopes to be delivered by hand to the offices of the addressees. (C.C.P. § 1011(a)(b)).

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on March 20, 2008, at Costa Mesa, California.


Rudi L. Wilson

McKinney v. Apollo Group, Inc., et al.
USDC, Southern – Case No. 07-CV-2373

Chad McKinney
 Pro Se
 6266 Madeline Street, Apt. #61
 San Diego, CA 92115
 (619) 634-3566

Plaintiff, Pro Se

United States District Court
 Attention: Hon. Judge William Q. Hayes
 Courtroom 4
 880 Front Street, Room 4290
 San Diego, CA 92101-8900
 (619) 557-5600

Courtesy Copy

Snell & Wilmer
 LLP
 LAW OFFICES
 600 Anton Boulevard, Suite 1400
 Costa Mesa, California 92626-7689
 (714) 427-7000